

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2586

Introduced by Assembly Member Parra

February 24, 2006

An act to amend Section 1170.9 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2586, as amended, Parra. ~~Veterans: federal incarceration.~~
Sentencing: veterans: treatment programs.

Under existing law, if a convicted defendant was a member of the military forces of the United States who served in combat in Vietnam and who suffers from substance abuse or psychological problems resulting from that service, the court may, under specified circumstances, order the defendant committed to the custody of federal correctional officials for incarceration for a term equivalent to that which the defendant would have served in state prison.

~~This bill would make technical nonsubstantive changes in that provision of law.~~ *instead provide that if a person is convicted of a criminal offense and alleges that he or she committed the offense as a result of post traumatic stress disorder, substance abuse, or psychological problems stemming from service in combat in the United States military, the court shall hold a hearing prior to sentencing to make a determination about that allegation. If the court finds that the defendant's crime was committed as a result of one of those factors related to serving in combat, and the court places the person on probation, the bill would authorize the court to place the person into a treatment program, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*
3 *(a) Post Traumatic Stress Disorder (PTSD) is an inclusive title*
4 *for a complex of mental disorders and conditions caused by*
5 *exposure to severe, violent and threatening situations like those*
6 *experience by military personnel in combat.*
7 *(b) Once brushed aside as shell shock or combat fatigue,*
8 *PTSD was finally recognized as an illness by the American*
9 *Psychiatric Association in 1980 based upon the psychiatric*
10 *experience of veterans of the Vietnam War.*
11 *(c) During and after the Vietnam War, a disproportionate*
12 *number of our returning combat veterans were incarcerated*
13 *because of behavior caused by their misunderstood and*
14 *untreated PTSD.*
15 *(d) In 1982, 10 years after the Vietnam War, the California*
16 *Legislature passed Section 1170.9 of the Penal Code. That*
17 *section is not sufficient to cover returning Iraq and Afghanistan*
18 *veterans.*
19 *(e) Therefore, it is the intent of the Legislature to extend the*
20 *opportunity for alternative sentencing to all combat veterans,*
21 *regardless of where or when those veterans served our country,*
22 *when those veterans are found by the court to be suffering from*
23 *PTSD.*
24 *(f) It is not the intent of the Legislature to expand probation*
25 *eligibility for veterans who commit crimes pursuant to these*
26 *provisions.*
27 *(g) It is the intent of the Legislature to ensure that judges are*
28 *aware that a criminal defendant is a combat veteran with these*
29 *conditions at the time of sentencing and to be aware of any*
30 *treatment programs that exist and are appropriate for the person*
31 *at the time of sentencing if a sentence of probation is*
32 *appropriate.*
33 ~~SECTION 1.~~
34 *SEC. 2. Section 1170.9 of the Penal Code is amended to read:*

1 1170.9. (a) In the case of any person convicted of a ~~felony~~
2 *criminal offense* who would otherwise be sentenced to ~~state~~
3 ~~prison, the court shall consider county jail or state prison and~~
4 *who alleges that he or she committed the offense as a result of*
5 *post traumatic stress disorder, substance abuse, or psychological*
6 *problems stemming from service in a combat theater in the*
7 *United State military, the court shall, prior to sentencing, hold a*
8 *hearing to determine whether the defendant was a member of the*
9 *military forces of the United States who served in combat in*
10 ~~Vietnam and who suffers from~~ *and shall assess whether the*
11 *defendant suffers from post traumatic stress disorder, substance*
12 *abuse or psychological problems resulting from that service. If*
13 ~~the court concludes that the defendant is such a person, the court~~
14 ~~may order the defendant committed to the custody of federal~~
15 ~~correctional officials for incarceration for a term equivalent to~~
16 ~~that which the defendant would have served in state prison. The~~
17 ~~court may make such a commitment only if the defendant agrees~~
18 ~~to that commitment, the court has determined that appropriate~~
19 ~~federal programs exist, and federal law authorizes the receipt of~~
20 ~~the defendant under such conditions.~~ *as a result of that service.*

21 (b) *If the court concludes that a defendant convicted of a*
22 *criminal offense is a person described in subdivision (a), and if*
23 *the defendant is otherwise eligible for probation and the court*
24 *places the defendant on probation, the court may order the*
25 *defendant into a local, state, federal, or private nonprofit*
26 *treatment program for a period not to exceed that which the*
27 *defendant would have served in state prison or county jail,*
28 *provided the defendant agrees to participate in the program and*
29 *the court determines that an appropriate treatment program*
30 *exists.*

31 (c) *When determining the “needs of the defendant,” for*
32 *purposes of Section 1202.7, the court shall consider the fact that*
33 *the defendant is a person described in subdivision (a) in*
34 *assessing whether the defendant should be placed on probation.*

35 (d) *A defendant granted probation under this section and*
36 *committed to a residential treatment program shall earn sentence*
37 *credits for the actual time the defendant served in residential*
38 *treatment.*

39 (e) *The court, in making an order under this section to commit*
40 *a defendant to a treatment program, shall give preference to a*

1 *treatment program that has a history of successfully treating*
2 *combat veterans who suffer from post traumatic stress disorder;*
3 *substance abuse, or psychological problems as a result of that*
4 *service.*

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